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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,902	11/18/2003	Timothy D. Strecker	10004251-3	7060

7590 04/07/2005

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/716,902	STRECKER, TIMOTHY D.
Examiner	Art Unit	
Frederick C. Nicolas	3754	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 February 2005.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 16,17 and 34-40 is/are pending in the application.  
4a) Of the above claim(s) 37 and 39 is/are withdrawn from consideration.

5)  Claim(s) 40 is/are allowed.

6)  Claim(s) 16,34-36 and 38 is/are rejected.

7)  Claim(s) 17 is/are objected to.

8)  Claim(s) 16,17 and 34-40 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 18 November 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show element (624, 630 and 634) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary

to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 34-36,38,16 are rejected under 35 U.S.C. 102(e) as being anticipated by Suto et al. 6,211,267.

Suto et al. disclose a method of dispensing a viscoelastic liquid from a dispensing apparatus as seen in Figure 1, which comprising introducing a first component viscoelastic liquid to a first feed screw disposed within a chamber (12), the chamber comprising a top portion, a middle portion and a bottom portion see Figure 4 for location of top, bottom and middle, wherein the middle portion includes at least two cylindrical bores (8,9) and (col. 2, ll. 9-11), introducing a second component viscoelastic liquid to a second feed screw disposed within the chamber (col. 2, ll. 16-33), counter

rotating the first and second feed screws a pre-selected amount, mixing the first and second component viscoelastic liquids forming a viscoelastic liquid product and dispensing a measured amount of the viscoelastic liquid product (col. 2, ll. 27-67 onto col. 3, ll. 1-55), a drive mechanism (13), the middle portion further comprises at least two partly overlapping cylindrical bores as seen in Figure 4, and the at least two partly overlapping cylindrical bores having substantially parallel internal walls as seen in Figure 4.

***Allowable Subject Matter***

5. Claim 40 is allowed.
6. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: the prior art fails to disclose or render obvious a dispensing apparatus capable of delivering precise quantities in combination with the other claimed limitations of claims 40 and 17:

“wherein the at least two feed screws further comprise helical threads having a variable pitch that decreases as the helical threads approach the bottom portion of the chamber”.

***Response to Arguments***

8. Applicant's arguments filed 2/7/2005 have been fully considered but are moot in view of the new ground(s) of rejection. However, with respect to applicant's argument

that the reference of Suto et al. does not teach the claimed limitation “at least two input channels coupled to a chamber, the chamber comprising a top portion, a middle portion and a bottom portion, wherein the middle portion includes at least two cylindrical bores having internal walls”, as clearly shown in Figures 2-4 of Suto et al. the claimed limitation “at least two input channels (8,9) coupled to a chamber having a top portion, middle portion and a bottom portion see Figure 4 for the marked location, and the chamber having at least two cylindrical walls as seen in Figures 2 and 4. Further, with respect to applicant’s argument that the reference of Suto et al. does not disclose dispensing a measured amount of the viscoelastic, the reference of Suto et al., specifically disclose in (col. 2, ll. 34-37) on Suto et al. “a ball valve (14) is used to control the amount of the final product which is discharged from the port (10). With respect to applicant’s comment on “the divisional application”, applicant should note reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e) or 120. See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. Also, the current status of all nonprovisional parent applications referenced should be included. Any remaining arguments have been fully addressed in the above rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

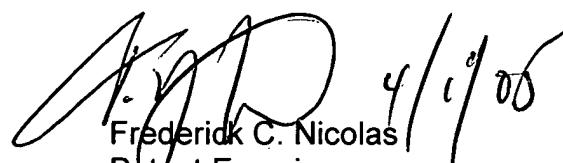
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN  
April 1, 2005



4/1/05  
Frederick C. Nicolas  
Patent Examiner  
Art Unit 3754